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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

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**MARY J. GRUNDY,**

Plaintiff,

v.

**JO ANNE B. BARNHART  
COMMISSIONER OF SOCIAL  
SECURITY**

Defendant.

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**OPINION**

Civ. No. 04-1096 (WHW)

**Walls, District Judge**

Plaintiff Mary J. Grundy (“Grundy” or “plaintiff”) appeals the denial of supplemental security income (“SSI”) benefits. This Court affirms the administrative law judge’s (“ALJ”) decision to deny benefits.

**BACKGROUND**

**A. Procedural History**

On May 2, 2002, Plaintiff filed an application for SSI benefits. (Tr. 15.) The claim was denied initially and on reconsideration. At plaintiff’s request a hearing was held on July 14, 2003 in Newark, New Jersey before ALJ Dean W. Determan. (Tr. 15.) On August 7, 2003 ALJ Determan issued an unfavorable decision, finding plaintiff was not disabled because evidence indicated that she could return to her past occupation as a fast food service worker. (Tr. 19.) An

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appeals council denied plaintiff's request for review in a decision dated February 2, 2004. (Tr. 4-7.) Plaintiff then filed this timely action before the Court.

**B. Employment History**

Plaintiff is a fifty-one-year-old woman with an eighth grade education. Plaintiff testified that she could not read or write very well. (Tr. 136-138.) Her past relevant work experience includes employment as a hospital linen washer and a fast food worker. When she worked as a hospital linen washer her duties included operating a machine and hanging sheets and tablecloths to be washed. This job required a lot of bending and heavy lifting. Her most recent employment was in April 1999, when she was employed as a fast food cook. This job required standing for long periods of time and lifting boxes weighing between thirty to forty pounds. (Tr. 47.)

**C. Medical History**

On or about April 1, 1999 plaintiff alleges that she became injured when she was involved in a bus accident that caused injury to her back and knees. (Tr. 145-147.) Plaintiff claims she visited the emergency room at Newark Beth Israel Medical Center on April 1, 1999, however there is no evidence of this visit in the record. According to plaintiff, during the emergency room visit X-rays were taken and she was given pain medication. (Tr. 40.) The next time plaintiff sought medical treatment was in May 1999 at University Hospital in Newark, New Jersey where she received a blood transfusion due to a drop in her hemoglobin count caused by chronic anemia. (Tr. 39.) Plaintiff has a history of chronic anemia caused by uterine fibroids. (Tr. 93.) Medical records show that plaintiff was admitted to University Hospital on October 8, 2000 for a blood transfusion. (Tr. 93-94.) At this time plaintiff was diagnosed with iron

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deficiency anemia, and she was advised to receive a hysterectomy by Dr. Vivek Vadahera but refused the procedure. (Tr. 93-94.) On December 1, 2001, plaintiff underwent an outpatient surgical procedure at University Hospital to remove fibroidal tissue in her uterus. (Tr. 124-126.) In September 2002, plaintiff was admitted to the hospital and diagnosed with symptomatic fibroid uterus causing menorrhagia.<sup>1</sup> (Tr. 18.) During this visit a pelvic and abdomen ultrasound showed multiple benign tumors in plaintiff's uterus, her gallbladder was slightly enlarged, and an endometrial biopsy confirmed endometrial irregularities. (Tr. 102-103.) Patient was released and told to follow up with a health clinic doctor. A social worker was contacted on plaintiff's behalf to set up assistance and charity care. In December 2002, plaintiff received dilation treatments. On May 8, 2003, plaintiff was once again admitted to University Hospital for a blood transfusion to treat anemia caused by heavy bleeding associated with uterine fibroids. Upon discharge, plaintiff was given Tylenol, Benadryl, Lasix (antihypersensitive medication) and an iron supplement. (Tr. 116.)

Dr. Edwards performed a consultative examination on August 13, 2002. Dr. Edwards reported that plaintiff walked with no impairment of gait and without an assistive device. The only problems noted in plaintiff's medical history are heavy menstrual periods and low hemoglobin count. She was able to squat, walk on heels and toes and had no muscle atrophy or sensory deficits. (Tr.79-80.) Plaintiff complained of pain in her lower back and that both her knees "pop" out of place occasionally. A range of motion examination showed a reduction in the knees of ten degrees on the right. Range of motion in the lumbar spine was reduced.

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<sup>1</sup> Menorrhagia: excessively prolonged or profuse menses (menstrual cycle). (Stedman's Medical Dictionary 26<sup>th</sup> Ed.)

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Plaintiff complained of tenderness in the paraspinal muscles and lumbosacral spine. Dr.

Edwards believed that plaintiff was exaggerating her symptoms to some degree since there was no definite showing of weakness in the knee joint ligaments. (Tr. 79-80.) His final diagnosis was osteoarthritis of the lumbosacral spine and both knees.

On August 26, 2002 a state agency staff orthopedist reviewed plaintiff's file. (Tr. 81-88.) The orthopedist noted that plaintiff's symptoms were disproportionate to physical findings in the record. (Tr. 86.) The physician also determined that plaintiff could lift and carry up to fifty pounds occasionally, twenty-five pounds frequently, and that she could stand, walk and sit for 6 hours in an 8-hour workday. (Tr. 82.) On May 8, 2003, plaintiff was hospitalized again and was found to have severe anemia requiring a blood transfusion. (Tr. 18.)

During a July 14, 2003 hearing before ALJ Determan plaintiff testified that she visits the hospital emergency room often due to her anemia. (Tr. 141.) Plaintiff testified that because of her injuries she is unable to work and complete daily activities because she is in too much pain, and always fatigued. (Tr. 145-150.) The anemia causes her to feel weak and short of breath, forcing her to lay down and rest every couple of hours during the day. (Tr. 148.) Plaintiff testified that she has problems with her knees, because they "pop out of place," and has severe arthritis in both knees. She does not use a cane for support or to ease the pain. To treat her anemia, plaintiff takes iron supplements, and to treat her pain she takes Tylenol twice a day.

## **DISCUSSION**

### **A. Standard of Review:**

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This Court has jurisdiction to review the Commissioner's final decision under 42 U.S.C. § 405(g). The district court must affirm the Commissioner's decision if it is "supported by substantial evidence." 42 U.S.C. §§ 405(g), 1383(c)(3); Plummer v. Apfel, 186 F.3d 422, 427 (3d Cir. 1999); Doak v. Heckler, 790 F.2d 26, 28 (3d Cir. 1986). "Substantial evidence is more than a mere scintilla. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." Metro Stevedore Co. v. Rambo, 521 U.S. 121, 149 (1997) (quoting Consolidated Edison Co. v. NLRB, 305 U.S. 197, 229 (1938)). While substantial evidence must have real probative weight, it "may be less than a preponderance." Brown v. Bowen, 845 F.2d 1211, 1213 (3d Cir. 1988) (citing Stunkard v. Secretary of Health & Human Services, 841 F.2d 57, 59 (3d Cir. 1988)).

"Despite the deference due to administrative decisions in disability benefit cases, 'appellate courts retain a responsibility to scrutinize the entire record and to reverse or remand if the [Commissioner]'s decision is not supported by substantial evidence.'" Morales v. Apfel, 225 F.3d 310, 317 (3d Cir. 2000) (quoting Smith v. Califano, 637 F.2d 968, 970 (3d Cir. 1981)). "A single piece of evidence will not satisfy the substantiality test if the [Commissioner] ignores, or fails to resolve, a conflict created by countervailing evidence." Morales, 225 F.3d at 317. Cursory conclusions unsupported by evidence cannot justify an ALJ's decision. Id. "[A] reviewing court may remand a case to the Secretary for good cause, 'where relevant, probative and available evidence was not explicitly weighed in arriving at a decision on the plaintiff's claim for disability benefits.'" Dobrowolsky v. Califano, 606 F.2d 403, 409 (3d Cir. 1979) (quoting Saldana v. Weinberger, 421 F. Supp. 1127, 1131 (E.D. Pa.1976)).

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In determining if there is substantial evidence to support the Commissioner's decision, the reviewing court must consider: "(1) objective medical facts; (2) diagnoses and expert opinions of treating and examining physicians on subsidiary questions of fact; (3) subjective evidence of pain; (4) the claimant's educational background, work history and present age." Snee v. Secretary of Health & Human Services, 660 F. Supp 736, 738 (D.N.J. 1987); accord Blalock v. Richardson, 483 F.2d 773, 776 (4th Cir. 1972). In order for this court to properly conduct judicial review and to avoid "judicial usurpation of administrative functions" it must ensure that the "administrative decision...[is] accompanied by a clear and satisfactory explication of the basis on which it rests." Id. Otherwise, remand is appropriate. Cotter v. Roberts, 642 F.2d 700, 705 (3d Cir. 1981).

### **B. Standard for the Commissioner's Determination of Disability**

"Disability" is defined by the Social Security Act as an "inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months." 42 U.S.C. § 423(d)(1)(A); Barnhart v. Thomas, 124 S. Ct. 376, 379 (2004); Burns v. Barnhart, 312 F.3d 113, 118 (3d Cir. 2002).

The Commissioner must follow a five step sequential process to determine if an applicant is disabled and eligible for Social Security Disability benefits. 20 C.F.R. § 404.1520. The Commissioner must first ascertain whether or not the claimant is currently engaged in "substantial gainful activity." Plummer, 186 F.3d at 428. "Substantial gainful activity" is defined as "the performance of significant physical or mental duties...for remuneration or profit."

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Chicager v. Califano, 574 F.2d 161, 163 (3d Cir. 1978). If the claimant is not engaged in “substantial gainful activity” then the ALJ must determine if the claimant is suffering from a severe impairment. Plummer, 186 F.3d at 428. A severe impairment is “any impairment or combination of impairments which significantly limits the claimant’s physical or mental ability to do basic work activities.” Thomas, 124 S. Ct. at 379; §§ 404.1520(c); 416.920(c). If the claimant’s impairments are severe, the ALJ must further determine if they are listed in Appendix 1 of the Social Security Regulations 20 C.F.R. § 404.1520 or are equivalent to the impairments listed there. Plummer, 186 F.3d at 428; § 404.1520. If the impairments are not listed in or equivalent to those listed in the appendix, then the ALJ must make a finding regarding the claimant’s “residual functional capacity to perform” his or her “past relevant work.” Id. “Residual functional capacity is defined as what a claimant can still do despite his limitations.” Burns, 312 F.3d at 119. Finally, if the ALJ holds that the claimant cannot return to his or her “past relevant work” due to the impairments, then the ALJ must determine if there are “other jobs existing in significant numbers in the national economy which the claimant can perform” taking into account his or her educational and work experiences. Plummer, 186 F.3d at 428.

## **ANALYSIS**

### **A. Substantial Evidence Supports the ALJ’s Decision**

#### *1) Substantial Gainful Activity*

The ALJ concluded in step one that plaintiff has not engaged in substantial gainful activity since the alleged onset of disability. Plaintiff does not dispute this finding.

#### *2) Determination of Severe Impairment*

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The ALJ concluded in step two that plaintiff has osteoarthritis and chronic anemia, and that both are severe impairments but not severe enough to medically equal the impairments listed in Appendix 1, Subpart P, Regulations No.4. (Tr. 17,19.).

*3) Listing of Impairments*

When analyzing plaintiff's claim under step three, the ALJ must determine whether plaintiff's impairment matches or is equivalent to a listed impairment. See Plummer, 186 F.3d at 428. The ALJ determined that plaintiff has osteoarthritis and chronic anemia, impairments that are severe within the meanings of Regulations, but not severe enough to medically equal the impairments listed in Appendix 1, Subpart P, Regulations No. 4. (Tr. 16-17.) Plaintiff alleges that the ALJ's decision does not sufficiently explain his reasons for his conclusion that her impairment is not severe enough. Specifically plaintiff alleges that the ALJ failed to properly evaluate the plaintiff's anemia. (Pl's Br. at 3.) In order to establish disability under the Act, plaintiff must establish that she is unable to engage in substantial gainful activity because of a physical or mental impairment that is expected to last for a continuous period of at least twelve months. 42 U.S.C. § 1382 c(a)(3). The claimant bears the burden of proof to establish entitlement to disability insurance benefits.

Although it is true that the ALJ's decision must be supported by substantial evidence, he does not have to set forth every piece of evidence in the record. "[An] ALJ is not required to supply a comprehensive explanation for the rejection of evidence; in most cases, a sentence or short paragraph would...suffice." Cotter v. Harris, 650 F. 3d at 482. The ALJ must only set forth and analyze the essential evidence upon which his decision was based. "An examiner's findings should...include



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a statement of subordinate factual foundations on which the ultimate conclusions are based, so that a reviewing court may know the basis for the decision.” Cotter v. Harris, 650 F. 2d 481, 482. In the present case the ALJ did consider the limitations resulting from the plaintiff’s chronic anemia. There is no evidence in the medical record that plaintiff suffered from low hemoglobin levels for longer than a period of three months. Also, plaintiff’s condition is treatable by blood transfusions. Although these transfusions require hospital visits of up to three days, the record shows that these visits only occurred about once every year. On more than one occasion plaintiff’s doctors recommended that she receive a hysterectomy to permanently treat her condition. However, plaintiff never followed up with this procedure. In his opinion the ALJ acknowledged that plaintiff’s chronic anemia does cause fatigue, but found that her condition is treatable and therefore is not permanently debilitating. The basis for the ALJ’s decision were discussed and set forth in his decision.

#### *4) Residual Functional Capacity*

The analysis then proceeded to step four, where the ALJ must determine plaintiff’s residual functional capacity (“RFC”) to perform her “past relevant work.” Plummer, 186 F. 3d at 428; 20 C.F.R. § 404.1520(d). RFC is defined in the Regulations as the most an individual can still do after considering the effects of physical and/or mental limitations that affect the ability to perform work-related tasks. 20 C.F.R. § 416.945; Social Security Ruling 96-8p. In making this decision the ALJ must consider all symptoms including pain, and the extent to which these symptoms can reasonably be accepted as consistent with the objective medical evidence. 20 C.F.R. § 416.929.

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The ALJ determined plaintiff retains the RFC for light work activity. (Tr. 18.) Plaintiff alleges that the ALJ failed to make a proper RFC determination because he did not sufficiently discuss the functional demands of “light” work. (Pl.’s Br. at 5.) Plaintiff cites to the social security ruling instructions for assessing claimant’s RFC to support her claim. Specifically, Social Security Ruling 96-8p, which instructs that an RFC assessment, must first identify plaintiff’s functional limitations and discuss these limitations on a function-by-function basis, and only after that has been done may the RFC be expressed in terms of exertional levels of work. (Pl.’s Br. at 6.) The ALJ’s decision identified certain functional demands of plaintiff’s work related activities, and discussed her ability to perform the work related activities. The ALJ also discussed the objective medical findings regarding plaintiff’s physical limitations or restrictions. In particular the ALJ referenced plaintiff’s consultative examination in which the doctor observed that plaintiff had a normal gait, was able to walk, squat, and had no sensory or reflex loss. (Tr. 79-80.) These clinical findings support the ALJ’s RFC decision, and show that the ALJ considered all of plaintiff’s functional limitations and restrictions. In addition the ALJ’s decision discusses the State Medical Agency review, which determined plaintiff was capable of lifting and carrying up to fifty pounds occasionally, twenty-five pounds frequently, and she could stand, walk, and sit for 6 hours in an 8-hour workday. (Tr. 81-86.) It was determined that plaintiff is capable of performing work that exceeds the physical demands for light work. (Tr. 81-88.)

Plaintiff also alleges that the ALJ erred by finding that she could return to her past relevant work as a food service worker. (Pl.’s Br. at 6.) There is conflict in the record regarding plaintiff’s past relevant work history, and the exertional demands of her job as a fast food service worker.

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Plaintiff has the burden of submitting the necessary evidence to support her claims. It is the ALJ's duty to evaluate and weigh the conflicting evidence and resolve these material conflicts. Plaintiff reported that her past work required her to stand all day and lift and carry items weighing less than ten pounds. (Tr. 69.) There is nothing in the record that contradicts the ALJ's findings that plaintiff could return to this work. None of plaintiff's treating physicians or the state agency physician determined that plaintiff was unable to return to this work. "A cardinal principal guiding disability eligibility determination is that the ALJ must accord treating physicians' reports great weight, especially when their opinions reflect expert judgment based on a prolonged period of time." Morales v. Apfel, 224 F.3d 310, 317 (3d Cir. 2000). During testimony, plaintiff had the opportunity to offer evidence that she was not capable of performing past work, however she did not and therefore based on the record and the evidence presented the ALJ's decision is supported by substantial evidence.

### **CONCLUSION**

Based on the evidence in the record, there is no medical evidence contradicting the ALJ's finding that Plaintiff can return to her past relevant work. There is substantial evidence to support the decision of the Administration to deny benefits to the Plaintiff.

For the preceding reasons the ALJ's decision is **AFFIRMED**.

**s/William H. Walls, U.S.D.J.**